

**RESPONSE TO REQUEST
FOR ADDITIONAL INFORMATION
REGARDING
CONSTRUCTION PERMIT MODIFICATION**

**VAW of America, Inc.
St. Augustine, FL**

RECEIVED

DEC 13 2001

Submitted to:

BUREAU OF AIR REGULATION

**Mr. Christopher L. Kirts, P.E.
District Air Program Administrator
Florida Department of Environmental Protection
Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, FL 33256-7590**

Prepared by:

**LAN Associates Engineering, Planning, Architecture, Surveying, Inc.
66 Cuna Street
St. Augustine, FL 32084**

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**LAN Ref. #2.392.41
December 4, 2001**

LAN

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**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST DISTRICT**

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December 4, 2001

VIA CERTIFIED MAIL

Article No. 7000 0600 0021 5682 4885

Mr. Christopher L. Kirts, P.E.
District Air Program Administrator
Florida Department of Environmental Protection
Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, FL 32256-7590

Subject: VAW of America, Inc.
Permit No.: 1090013-003-AV
AIRS ID No. 1090013
Response to Request for
Additional Information Regarding
Construction Permit Modification
LAN Ref. #2.392.41

Dear Mr. Kirts:

This letter is written in response to your letter of September 7, 2001, (Attachment 1) requesting additional information for the pending Air Permit Modification Construction Application submitted to your office on April 4, 2001, with additional information being submitted on August 9, 2001.

The first issue that needs to be addressed is the issue of "clean charge." The Department letter of September 7 indicated the Department believes that VAW may be subject to the Secondary Aluminum Production NESHAP because of the definition of clean charge. In our previous submission to your office dated August 9, 2001, (Attachment 2 - letter only with Attachment 7), we provided the definition of "clean charge" as requested by the Department and indicated VAW's dispute with that definition, as it will be revised by EPA. However, it is important to note that VAW's assertion that they are NOT subject to this NESHAP, is not based upon the definition of "clean charge." It is instead based upon the statements made by EPA in a Federal Register proposed rule issued on Thursday, September 4, 2000, at 65 FR 55491. The rule (Attachment 3) states the following:

"EPA is proposing a rule to stay the applicability of the national emission standards for hazardous air pollutants (NESHAP) for Secondary Aluminum

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*Production, as applied to **aluminum foundries** (emphasis added by author) and aluminum die casting facilities during the pendency of a separate rulemaking to adopt alternate MACT requirements for these sources. The EPA intends to take final action concerning this proposed stay at the same time as it proposes to remove aluminum foundries from the present secondary aluminum standard and to adopt alternate MACT requirements deemed necessary and appropriate for these sources."*

VAW is an aluminum foundry operating under SIC Code 3365 for **Aluminum Foundries**; secondary aluminum facilities operate under SIC Code 3341, which is defined as **Secondary Smelting and Refining of Non-ferrous Metals**. VAW maintains that it is not a secondary smelter/refiner of aluminum; VAW is a foundry, and part of the group to which this applicability stay applies.

VAW has heard rumors, which cannot be substantiated, that EPA is not going to perform the development of a separate NESHAP for foundries; instead it is planning to revise the current NESHAP to meet the settlement guidelines of the American Foundrymen's Society (AFS) and Aluminum Association (AA) lawsuits. Either way, VAW is reserving the right to comment and/or take other actions on the new or revised ruling. It is our understanding that this new and/or revised ruling is scheduled for issuance in (May) 2002.

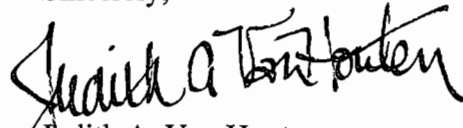
VAW agrees with EPA's removal of foundries from the current NESHAP and agrees that a separate rulemaking should be published. Therefore, VAW asserts that PSD review based upon NESHAP applicability is not warranted or appropriate. VAW believes that the proposed construction permit modification request should be granted based upon the 250 TPY VOC ceiling rather than a 100 TPY ceiling. At the very earliest, the proposed rulemaking process will not be finished until fall 2002, and that is viewed as unlikely. Discussions with the AA group indicate that they are not pleased with EPA's current language proposal; it is entirely possible that the issues will remain unsettled for the foreseeable future. VAW believes that it would be unfair and unjust to be required to go through a premature process of PSD review based upon NESHAP issues. When EPA issues final rulemaking on the NESHAP, and settles the issues brought forth by the AFS and AA lawsuits, the issue can be reviewed again. The definition of "clean charge" is moot as VAW is a foundry and exempt from NESHAP applicability because of facility type not because of the definition of clean charge.

The Department letter of September 7, 2001, requested that the List of Proposed Exempt Activities be revised to ensure that no activities have been omitted. This process has been completed and the revised list is provided in Attachment 4 to this letter as Table of Proposed Exempt/Insignificant Activities. You will note that three (3) water evaporators (two @ 0.195 mmBtu/hr and one @ 0.395 mmBtu/hr) have been added to the previously submitted list. The appropriate fuel usage, operating hours, and relevant emissions estimations for the added evaporators are provided in the table to allow the Department to make the appropriate insignificant activity determination.

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The applicant information and professional engineer certification is provided in Attachment 5. Four copies of this letter and attachments are provided as requested. Thank you for your review of this information, on behalf of VAW. If additional information is requested or if you have questions, please do not hesitate to contact me at (904) 824-6999, or Mr. Wayne LaPierre at VAW (904) 794-1500 (Ext. 1505).

Sincerely,



Judith A. Van Houten
Compliance Manager

/jav

2-392-41-FLDEP-Kirts--RespAddlInfo-011204-jvh.doc

Attachments: #1-FDEP letter of September 7, 2001
#2-LAN letter of August 9, 2001 with Attachment 7
#3-EPA Federal Register Proposed Rule 65 FR 55491
#4-Table of Proposed Exempt/Insignificant Activities
#5-Applicant Submission/Professional Engineer Certification

Copies to: Mr. Wayne LaPierre, VAW

Attachment 1

FDEP Letter of September 7, 2001



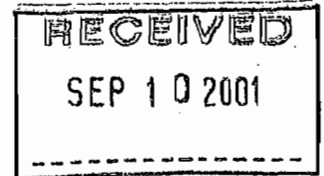
Department of Environmental Protection

Jeb Bush
Governor

Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, Florida 32256-7590

David B. Struhs
Secretary

September 07, 2001



CERTIFIED - RETURN RECEIPT

Mr. Robert Keathley
Vice President of Operation
VAW of America, Inc.
Post Office Box 3887
St. Augustine, Florida 32086

Dear Mr. Keathley:

St. Johns County - AP
AIRS ID No. 1090013

Request for Additional Information Regarding Construction Permit Modification

In accordance with Rule 62-4.055(1), Florida Administrative Code (F.A.C.) and Chapter 120, Florida Statutes (F.S.), the Department has reviewed the subject application and has determined that the following information and questions need to be answered before the application can be further processed.

Should your response to any of the below items require new calculations, please submit the new calculations, assumptions, reference material and appropriate revised pages of the application form.

It is the department's understanding from the Scrap Receiving Inspection Report, that VAW allows up to 10% painted scrap in the melting process. In addition, the No. 1 Melt Furnace is set up to burn up to 50% dealer scrap. Therefore, it appears that the raw materials used at VAW do not meet the NESHAP, Subpart RRR, for Secondary Aluminum (40 CFR 63.1503) definition of *Clean Charge*¹. If this is the case, then according to the PSD Applicability Determination prepared by DARM, VAW may be subject to the PSD requirements at the 100 TPY threshold instead of the 250 TPY threshold since it would be classified as one of the 28 Major Facility Categories (Secondary Metal Production Plant-Table 212.400-1 F.A.C.). If on the other hand, VAW restricted its materials to meet the definition of *Clean Charge*, then the facility would not be classified as one of the 28 Major Facility Categories. The PSD applicability threshold would then be 250 TPY instead of 100 TPY.

¹ Clean charge means furnace charge materials including molten aluminum; T-bar; sow; ingot; billet; pig; alloying elements; uncoated/ unpainted thermally dried aluminum chips; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900°F) or higher; other oil- and lubricant-free unpainted/uncoated gates and risers; oil- and lubricant-free unpainted/uncoated aluminum scrap, shapes, or products (e.g., pistons) that have not undergone any process (e.g., machining, coating, painting, etc.) that would cause contamination of the aluminum (with oils, lubricants, coatings, or paints); and internal runaround.

"More Protection, Less Process"

Printed on recycled paper.

VAW of America, Inc.
September 07, 2001
Page two

It appears that there may have been some omissions in the List of Proposed Exempt Activities that was provided in Attachment 5. Please review the list, provide all the necessary information including heat input, fuel usage, operating hours and relevant emission information so that an insignificant activity determination for those activities can be conducted.

The subject application can not be processed until the above requested information is provided or corrected. The application will be held in abeyance until 90 (ninety) days from the date of this letter to allow for supplement or amendment.

All information requested must be submitted by the applicant and certified by the professional engineer named in the application. Four copies of the requested information must be submitted.

If you should have any questions, please call Hui Liang at (904) 807-3300, extension 3238.

Sincerely,



Christopher L. Kirts, P.E.
Air Program Administrator

lk
CLK: HL

Copy to:
Guy D. Van Doren, P.E. – LAN Associates, Inc.
Teresa Heron, – BAR/DARM/NSR

Attachment 2

LAN Letter of August 9, 2001 with Attachment 7



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August 9, 2001

BY HAND DELIVERY

Mr. Christopher L. Kirts, P.E.
District Air Program Administrator
Florida Department of Environmental Protection
Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, FL 32256-7590

Subject: Construction Permit
Modification Request
VAW of America, Inc.
Permit No.: 1090013-003-AV
AIRS ID No. 1090013
Project No. 005
LAN Ref. #2.392.41

Dear Mr. Kirts:

On behalf of VAW of America, Inc. (VAW), LAN Associates Engineering, Planning, Architecture, Surveying, Inc. (LAN) has prepared responses to your letter dated May 1, 2001 (Attachment 1), requesting additional information to supplement the Title V air permit modification application for VAW. Pursuant to that letter, the application was being held in abeyance until August 10, 2001, to allow time for the submission of additional information. At issue was the status of the classification of VAW as a secondary aluminum production plant and thereby subject to PSD determination. Our responses to your requests for information are provided in the same numerical sequence as your letter of May 1, as follows:

1. Secondary Metal Facility Issues /PSD/Process Operations

As can be seen by the various SIC Codes under which the VAW facility operates (See Paragraph 2 below), there are several types of facility process operations that take place at the VAW facility. VAW's finished product is sold under SIC Code 3354 and 3355, and consists of aluminum tubes and shapes, which are drawn and extruded. The tubes and shapes are extruded and drawn from billets sawed from aluminum logs that are cast on site in the VAW casting operations. Raw materials arrive at the VAW facility in the form of aluminum prime and various hardening agents including copper, manganese, chromium, iron, titanium, and silicon metal. The facility has two melting furnaces that are charged with

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the raw materials according to the type of aluminum being cast. Scrap from the extrusion operations is recycled at the facility by being remelted in the furnaces. The molten aluminum is cast into an underground casting pit and allowed to harden into logs. The logs are 246" in length and range from 7" to 10" in diameter. The logs are then placed into the homogenizers that create the necessary hardness and strengths, which is necessary for further processing. After the logs are sawed into billets, they are extruded and drawn into various shapes. The tubes and shapes undergo solvent cleaning and/or undergo painting and other fabrication prior to being shipped to VAW's customers.

As for VAW being classified as a secondary metal facility - in short - the "jury is still out." As discussed in various meetings with DEP and also with EPA and industry representatives, the secondary NESHAP for facilities such as VAW is currently in an "applicability stay" status. EPA has stated in rulemaking that a separate NESHAP will be promulgated for facilities such as VAW. LAN has been in touch with the stakeholder organizations who are currently in negotiations with EPA on this matter.

As originally drafted in proposed rulemaking, the Secondary NESHAP was designed to affect facilities operating under SIC Code 3341, facilities which recycle post-consumer scrap and dross to manufacture aluminum ingot. However, during the rulemaking process, EPA changed the final rule, and consequently was sued by the Aluminum Association for SIC Code 3341 and the American Foundrymen Society on behalf of SIC Codes 3354 and 3365, which are applicable to VAW. The Foundrymen representative has informed LAN that they have submitted language to EPA that will "get everybody out except those facilities that have scrap dryers." We have no way of knowing how EPA will react to this proposed language, but it will not be resolved until the early fall. VAW is, therefore, taking the position that they are not a secondary metal facility, as such, considering that the current NESHAP is subject to change at any time, and also considering EPA's current published guidance on what a secondary metal facility is.

VAW's current Title V permit will expire on December 28, 2003, with an application for re-issue due on June 28, 2002, approximately nine (9) months from the present time. By then, EPA will surely have re-issued the rulemaking on the Secondary Aluminum NESHAP. If it is acceptable to the Department, the application may be a good opportunity to discuss both the PSD issues in light of new rulemaking by EPA. Subjecting VAW to PSD review at this time, if it is finally excepted from the NESHAP, will cause undue hardship to the facility. The Department should also consider that the Secondary Aluminum NESHAP was promulgated listing PM as the surrogate for metal HAPS. VOC emissions are not addressed in the NESHAP, and are not HAPS. PSD review for a regulated pollutant does not appear to be appropriate, in light of the fact that VAW has not exceeded the PSD regulatory limit (250 TPY).

SIC/NAICS Codes

The applicable SIC and NAICS Codes for the VAW facility are provided in the table below:

SIC	NAICS	Description
3354	331316	Aluminum Extrusions
3355	331319	Aluminum Drawing/Rolling
3365	331524	Aluminum Foundries
3398	332811	Metal Heat Treatment

The primary SIC Code for the VAW facility is 3354 in that the extrusions of aluminum are the primary product produced at the facilities. The other operations are secondary operations producing the raw material for the final product - aluminum shapes and extrusions.

2. Company Supplier Specification/Protocol

VAW has specification protocols in place, which are applicable to raw materials, including prime and additives, as well as purchased scrap. A sample of the quality specification/protocols is included in Attachment 2.

3. Criteria Pollutant PTE

The potential to emit (TPY) for each criteria pollutant at the VAW facility was originally provided in Table 4, Attachment 6 of the Construction Air Permit Application package submitted April 4, 2001. Table 4 represented the summary of calculations (Attachment 5 in the previous submission) for the maximum annual processing or use capacities of materials and chemicals used at the facility. Attachment 3 contains a revised table showing the potential to emit for all criteria pollutants.

In addition, the list of insignificant or exempt activities for the facility has been revised. Locations of all the insignificant/exempt sources and regulated emission sources are included in the site plans provided in Attachment 4. Total potential emissions of criteria pollutants from all the insignificant activities are: PM, 20.3 TPY; NO_x, 27.8 TPY; VOC, 1.9 TPY; and CO, 4.9 TPY. Attachment 5 contains a table containing all necessary information for the insignificant/exempt activities

4. VOC Emissions Cap

The emission sources that have potential to emit significant amounts of VOC include the Paintline, OPC Tube Mill, and 140-solvent tank located in the Main Plant. The application in April 2001 only requested an increase in 140-solvent usage in the Main Plant. However, for the other two sources, the existing permitted emission capacities are much higher than the actual emissions, and are not expected to exceed the existing permit conditions over the next few years.

VAW has put tremendous effort in reducing hazardous pollutants and VOC usage in the Paintline. The usage of xylene and MEK as solvents in the Paintline has been discontinued in favor of non-toxic organic solvent resulting in much lower emissions of these chemicals. The company is also working on a project to replace liquid paints with powder paints, for all

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customers who will accept such a product change. As a result, the potential emissions of VOC, xylene, and MEK from the Paintline are expected to reduce accordingly.

VAW requests an emission cap for facility-wide emissions for the following pollutants: VOC, at 245 TPY and xylene, at 7 TPY. Consumption of MEK has been reduced to 3 TPY. Therefore, a cap for MEK will not be required as it is less than 50% of the major source category for that listed HAP. Attachment 6 contains the appropriate pages from the air permit application to request this emissions cap.

5. VOC vs. HAP Emissions

The VOC emission limit of 31.43 TPY in the Paintline in the existing permit was adopted from the old permit for the Paintline, which include xylene and MEK (Permit No. A055-141777, issued February 1, 1998). Both xylene and MEK have been used in the Paintline since the beginning of operations even though they were not limited individually in the permit. Therefore, the total VOC emission limit for the painting operation is correctly listed at 31.43 TPY, not 48.85 TPY. HAPs were listed for information purposes only as Title V application instructions and regulations specify that each pollutant should be identified.

6. EU's 008 & 009 Surrogate Information and Emission Factors

There are two melting furnaces in the VAW facility. Only the No. 1 Furnace has a wet scrubber designed to control pollutants when the furnace is processing painted aluminum scrap. Scrubber control is not required when clean aluminum scrap is processed. The No. 2 furnace is only allowed to process clean aluminum raw material and, therefore, scrubber control is not required. The pressure drop at the No. 1 Remelting Furnace is an indication of proper operating conditions of the scrubber for the furnace, and could be used as a surrogate periodic monitoring parameter when the scrubber is operated. It is important to note here that VAW has a current specification protocol in place, pursuant to which outside purchased scrap must contain less than 10% painted surfaces. Normal production operations utilize less than 5% purchased scrap on an annual basis. Most of the scrap melted in the furnace is internal runaround. The scrubber operation pressure drop cannot be a surrogate for the No. 2 Furnace in particulate monitoring because it does not have a scrubber. Furnace designed temperature for both furnaces will be the proper indicator of normal operation condition when the scrubber is not in use. The proper furnace temperature ranges from 1340 to 1360°F once aluminum is in a molten state. The VOC destruction efficiency will be sufficient at this temperature range.

7. Clean Charge

The definition of "clean charge" is currently under review by EPA and is one of the targeted issues in the lawsuit brought by the American Foundrymen Society. When the definition is re-promulgated by EPA, VAW will be in a better position to define this term. The stakeholders currently in negotiation with EPA have informed LAN that this definition will be revised in the re-promulgated NESHAP. The final definition is not known at this time.

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At the present time, VAW periodically purchases scrap from off-site which, by company specifications, must be less than 10% painted scrap. The definition of clean scrap, as promulgated by EPA on March 23, 2000, at 65 FR Page 15711 for secondary aluminum facilities is attached as Attachment 7. VAW disputes this definition in collaboration with the other stakeholders in the industry.

8. Melting Furnace Stack Tests and Application Information

The application forms for the stack parameters for the furnaces are revised to reflect the stack test findings. The revised pages for both furnaces are in Attachment 8.

9. Fluxing Information

VAW does not anticipate using flux in the foreseeable future, and has not yet used any flux as addressed in the permit application. Flux is only required for usage when "dirty" scrap is melted in the furnace. The 5% usage of minimally painted (less than 10%) scrap does not warrant the use of flux. If market conditions change, VAW will need the flexibility to use flux when needed. Based on the permit application submitted, the proposed flux annual usage is 23 tons per year and aluminum melting capacity is 23,040 tons per year for each furnace. Therefore, the proposed flux use rate is less than 0.1 percent by weight.

10. Powder Paint MSDS and Information

No VOCs exist in the powder paint materials. Therefore, please change this source to an insignificant source as discussed between the representatives of LAN and Florida DEP, Northeast District. The requested MSDS, along with a table outlining the various chemical constituents of the paints, and a representative letter from a paint supplier is provided in Attachment 9.

11. Alumibond and Alodine 47 Usage Information

Both Alumibond and Alodine 47 contain hydrogen fluoride (HF), which are used as pretreatment chemicals for aluminum surface etching in the Paintline. They contain no more than 25 and 30 percent HF, respectively. Less than 10 lbs HF in the chemicals is diluted in 5000 gallons of water in a pretreatment tank daily resulting in dilute HF concentration. Most of HF will react with aluminum forming Al-F precipitate during the pretreatment process, resulting in negligible HF emissions. The facility consumed 2,400 lbs HF in 2000. Total HF consumption from the chemical usage will not exceed 3,000 lbs. per year. A maximum HF emission rate is no more than 10% of HF used, so the annual HF emission will be less than 300 lbs, with the current operation schedule of 8760 hours per year. Therefore, the hourly HF emission is less than 0.034 lb or 15 grams. MSDS for the two chemicals are in Attachment 10.

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12. Responsible Official Letter of Authorization

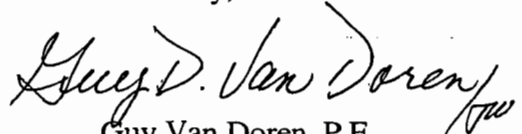
Attachment 11 is provided as the Letter of Authorization, authorizing Mr. Robert Keathley to perform as the responsible official for VAW of America, Inc., as to air permitting issues.

13. Certification by Professional Engineer

The appropriate certification has been executed and is included as Attachment 12.

Thank you for your review of this information. If you have any questions regarding this letter or the pending application, please do not hesitate to contact Ms. Judy Van Houten, Dr. Handi Wang, or me at (904) 824-6999.

Sincerely,



Guy Van Doren, P.E.
CEO

GDVD:jw

2.392.41-L-FLDEP-Kirts-010809-gvd

Copies to: Mr. Wayne LaPierre/VAW

Attachment: #1-FLDEP letter, dated May 1, 2001
 #2-Sample of the quality specification/protocols
 #3-Criteria Pollutant Emission Summary
 #4-Updated VAW of America, Inc. site plan with emission source locations
 #5-Updated list of insignificant activities
 #6-Facility & Emission Unit 1 pollutant detail information
 #7-Federal Register page 15711 (March 23, 2000)
 #8-Melting Furnace Stack Parameter Application Pages
 #9-MSDS for Powder Paint/Letter from Paint Company
 #10-MSDS for Alumibond 2 and Alodine 47
 #11-VAW Letter of Authorization
 #12-P.E. certification/LAN Associates, Inc.

"Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs) and 1989 Update" (EPA/625/3-89/016).

(b) The material incorporated by reference is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC; and at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M Street SW, Washington, DC. The material is also available for purchase from the following addresses:

(1) Customer Service Department, American Conference of Governmental Industrial Hygienists (ACGIH), 1330 Kemper Meadow Drive, Cincinnati, OH 45240-1634, telephone number (513) 742-2020; and

(2) The National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA, NTIS no. PB 90-145756.

§ 63.1503 Definitions.

Terms used in this subpart are defined in the Clean Air Act as amended (CAA), in § 63.2, or in this section as follows:

Add-on air pollution control device means equipment installed on a process vent that reduces the quantity of a pollutant that is emitted to the air.

Afterburner means an air pollution control device that uses controlled flame combustion to convert combustible materials to noncombustible gases; also known as an incinerator or a thermal oxidizer.

Aluminum scrap shredder means a unit that crushes, grinds, or breaks aluminum scrap into a more uniform size prior to processing or charging to a scrap dryer/delacquering kiln/decoating kiln, or furnace. A bale breaker is not an aluminum scrap shredder.

Bag leak detection system means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (*i.e.*, baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to monitor relative particulate matter loadings.

Chips means small, uniformly-sized, unpainted pieces of aluminum scrap, typically below 1¼ inches in any dimension, primarily generated by turning, milling, boring, and machining of aluminum parts.

Clean charge means furnace charge materials including molten aluminum; T-bar; sow; ingot; billet; pig; alloying

elements; uncoated/unpainted thermally dried aluminum chips; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher; other oil- and lubricant-free unpainted/uncoated gates and risers; oil- and lubricant-free unpainted/uncoated aluminum scrap, shapes, or products (*e.g.*, pistons) that have not undergone any process (*e.g.*, machining, coating, painting, etc.) that would cause contamination of the aluminum (with oils, lubricants, coatings, or paints); and internal runaround.

Cover flux means salt added to the surface of molten aluminum in a group 1 or group 2 furnace, without agitation of the molten aluminum, for the purpose of preventing oxidation.

D/F means dioxins and furans.

Dioxins and furans means tetra-, penta-, hexa-, and octachlorinated dibenzo dioxins and furans.

Dross means the slags and skimmings from aluminum melting and refining operations consisting of fluxing agent(s), impurities, and/or oxidized and non-oxidized aluminum, from scrap aluminum charged into the furnace.

Dross-only furnace means a furnace, typically of rotary barrel design, dedicated to the reclamation of aluminum from dross formed during melting, holding, fluxing, or alloying operations carried out in other process units. Dross and salt flux are the sole feedstocks to this type of furnace.

Emission unit means a group 1 furnace or in-line fluxer at a secondary aluminum production facility.

Fabric filter means an add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media; also known as a baghouse.

Feed/charge means, for a furnace or other process unit that operates in batch mode, the total weight of material (including molten aluminum, T-bar, sow, ingot, etc.) and alloying agents that enter the furnace during an operating cycle. For a furnace or other process unit that operates continuously, **feed/charge** means the weight of material (including molten aluminum, T-bar, sow, ingot, etc.) and alloying agents that enter the process unit within a specified time period (*e.g.*, a time period equal to the performance test period). The **feed/charge** for a dross only furnace includes the total weight of dross and solid flux.

Fluxing means refining of molten aluminum to improve product quality, achieve product specifications, or reduce material loss, including the addition of solvents to remove impurities (solvent flux); and the injection of gases such as chlorine, or

chlorine mixtures; to remove magnesium (demagging) or hydrogen bubbles (degassing). **Fluxing** may be performed in the furnace or outside the furnace by an *in-line fluxer*.

Furnace hearth means the combustion zone of a furnace in which the molten metal is contained.

Group 1 furnace means a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing, or processes *clean charge with reactive fluxing*.

Group 2 furnace means a furnace of any design that melts, holds, or processes only *clean charge* and that performs no *fluxing* or performs *fluxing* using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.

HCl means, for the purposes of this subpart, emissions of hydrogen chloride that serve as a surrogate measure of the total emissions of the HAPs hydrogen chloride, hydrogen fluoride and chlorine.

In-line fluxer means a device exterior to a furnace, located in a transfer line from a furnace, used to refine (flux) molten aluminum; also known as a flux box, degassing box, or demagging box.

Internal runaround means scrap material generated on-site by aluminum extruding, rolling, scalping, forging, forming/stamping, cutting, and trimming operations that do not contain paint or solid coatings. Aluminum chips generated by turning, boring, milling, and similar machining operations that have not been dried at 343 °C (650 °F) or higher, or by an equivalent non-thermal drying process, are not considered internal runaround.

Lime means calcium oxide or other alkaline reagent.

Lime-injection means the continuous addition of lime upstream of a fabric filter.

Melting/holding furnace, or melter/holder, means a group 1 furnace that processes only *clean charge*, performs melting, holding, and fluxing functions, and does not transfer molten aluminum to or from another furnace.

Operating cycle means for a batch process, the period beginning when the feed material is first charged to the operation and ending when all feed material charged to the operation has been processed. For a batch melting or holding furnace process, **operating cycle** means the period including the charging and melting of scrap aluminum and the fluxing, refining, alloying, and tapping of molten aluminum (the period from tap-to-tap).

Attachment 3

EPA Federal Register Proposed Rule 65 FR 55491

and participate in the regulatory development process. As part of the information gathering process, EPA intends to issue an information collection request to the individual companies and plants which will seek site-specific information in these and other areas.

Administrative Requirements

Because this ANPR is not a rule or a proposed rule, the EPA has not prepared an economic impact analysis pursuant to section 317 of the CAA, a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act, or a written statement under section 202 of the unfunded Mandates Act of 1995. Also, this ANPR does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act.

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether a regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

OMB has determined that this proposed advance notice of proposed rulemaking is a "significant regulatory action" because of novel legal or policy reasons. As such, this action was submitted to OMB for review.

Dated: September 8, 2000.

Carol M. Browner,
Administrator.

[FR Doc. 00-23644 Filed 9-13-00; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6869-3]

RIN 2060-AJ11

National Emission Standards for Hazardous Air Pollutants: Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; applicability stay.

SUMMARY: In this action, EPA is proposing a rule to stay the applicability of the national emission standards for hazardous air pollutants (NESHAP) for Secondary Aluminum Production, as applied to aluminum foundries and aluminum die casting facilities during the pendency of a separate rulemaking to adopt alternate MACT requirements for these sources. The EPA intends to take final action concerning this proposed stay at the same time as it proposes to remove aluminum foundries and aluminum die casting facilities from the present secondary aluminum standard and to adopt alternate MACT requirements deemed necessary and appropriate for these sources.

In an advance notice of proposed rulemaking (ANPR) published elsewhere in this *Federal Register*, EPA is announcing its intention to propose amendments to the NESHAP for Secondary Aluminum Production to remove aluminum foundries and aluminum die casting facilities from those standards and to make a new determination concerning maximum achievable control technology (MACT) requirements for major sources and area sources in these industries.

DATES: *Comments.* Comments must be received on or before October 16, 2000.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-2000-35, U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460. We request that a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Docket. Docket No. A-2000-35 is available for public inspection and

copying from 8:30 a.m. to 5:30 p.m., Monday through Friday (except for Federal holidays), at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M-1500, Ground Floor, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying docket items.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposed rule, contact Mr. Juan Santiago, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541-1084, Santiago.Juan@EPA.gov.

SUPPLEMENTARY INFORMATION:

Comments

Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect(TM) version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A-2000-35. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Juan Santiago, U.S. EPA, c/o OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 740B, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Regulated Entities

The regulated category and entities affected by this action include:

Category	NAICS Code	SIC Code	Examples of regulated entities
Industry	331521 331524	3363 3365	Aluminum die casting facilities. Aluminum foundry facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that the Agency is now aware could potentially be affected by this action. If you have questions regarding the applicability of this proposed stay to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline

The information presented in this preamble is organized as follows:

- I. What are we proposing?
- II. Why are we taking this action?
- III. Whom would this stay affect?
- IV. What related actions is EPA undertaking?
- V. What are the administrative requirements for this stay?
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. Unfunded Mandates Reform Act of 1995
 - F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C 601 *et seq.*
 - G. Paperwork Reduction Act
 - H. National Technology Transfer and Advancement Act

I. What are we proposing?

Aluminum foundries and aluminum die casting facilities are subject to the current NESHAP for Secondary Aluminum Production, 40 CFR part 63, subpart RRR. We are proposing to stay the applicability of subpart RRR to sources in the aluminum foundry and aluminum die casting industries during the pendency of a new rulemaking to remove these sources from subpart RRR and to adopt alternate MACT requirements deemed necessary and appropriate for such sources.

II. Why are we taking this action?

The EPA promulgated the NESHAP for the Secondary Aluminum Production source category on March 23, 2000 (65 FR 15690). As promulgated, these standards apply to major and area source aluminum foundries and aluminum die casting facilities, except for those facilities that melt no materials other than clean charge and materials generated within

the facility and that also do not operate a thermal chip dryer, sweat furnace or scrap dryer/delacquering kiln/decoating kiln.

The EPA based the NESHAP for aluminum foundries and aluminum die casting facilities, as well as its assessment of the economic impacts on small businesses in these industry segments, on information pertaining to representative facility practices in these industry segments. We believed that the information in the record supporting our NESHAP for secondary aluminum production facilities was representative of the operations and range of emissions at aluminum die casting facilities and aluminum foundries and sufficient to support the MACT requirements we adopted in those standards for them, although we did not have emissions data on dioxin and furan emissions specifically measured at aluminum foundries and die casting facilities.

However, affected aluminum foundry operators and die casters have expressed the view that the information and assumptions upon which we relied when we promulgated the Secondary Aluminum Production NESHAP may be incomplete or may not adequately represent the processes and emissions at such facilities. Accordingly, EPA made a commitment as part of the NESHAP for the Secondary Aluminum Production source category to initiate a formal process to collect further information from the facilities in these industries on the activities in which they engage and the potential of these activities to contribute to HAP emissions. EPA also published that, after evaluating this information, it would make a new determination concerning MACT requirements for both major sources and area sources in these industries. EPA has since entered into a settlement agreement in *American Foundrymen's Society, et al. v EPA*, Civ. No. 00-1208 (D.C. Cir.) that effectuates this commitment in the preamble to the NESHAP for the Secondary Aluminum Production source category.

The EPA intends to undertake a new rulemaking to remove aluminum foundries and aluminum die casting facilities from subpart RRR and to make a new determination concerning alternate MACT requirements deemed necessary and appropriate for these sources in the context of a separate source category. We intend to collect further information from these facilities

using our authority under CAA section 114 and to make a new determination concerning the MACT floor and any MACT requirements deemed necessary and appropriate for these facilities based on this information. Our intention to proceed with this new MACT rulemaking is expressly contingent on our ability to collect information concerning the processes employed at these facilities and the associated emissions, sufficient both to fully support establishment of a separate MACT floor for such facilities and to resolve any remaining questions regarding the practicality, cost, and efficacy of potential emission controls.

In this action, EPA is proposing a rule to stay the applicability of subpart RRR to aluminum foundries and aluminum die casting facilities during the pendency of the rulemaking to make a new determination concerning alternative MACT requirements for these facilities. We intend to take final action concerning this proposed stay at the same time as we propose to remove aluminum foundries and aluminum die casting facilities from subpart RRR and to adopt alternative MACT requirements deemed necessary and appropriate for these facilities.

The EPA is proposing this applicability stay because it would make no sense to require major and area sources at aluminum foundries and aluminum die casting facilities to continue to plan for compliance with the existing provisions of subpart RRR once EPA has made a new determination of MACT requirements for these facilities and has proposed to remove these facilities from subpart RRR. Assuming that the information collection process can proceed expeditiously, we believe that a new MACT floor for these facilities can be determined and alternate MACT requirements deemed necessary and appropriate for affected sources can be proposed before any facility would be legally obligated to comply with the substantive controls required by subpart RRR.

Any proposed rule to adopt an alternative NESHAP for aluminum foundries and die casters will provide affected facilities with a reasonable amount of time after the effective date of the promulgated standards, and in no event less than one year, to come into compliance with the final standards.

Aluminum foundries and die casters will also have a reasonable amount of time to come into compliance with the existing NESHAP for secondary aluminum production should EPA elect not to issue a proposed rule to remove aluminum foundries and die casters from 40 CFR part 63, subpart RRR.

III. Whom would this stay affect?

When finalized, this proposed stay would affect those aluminum die casting facilities and aluminum foundry facilities to which 40 CFR part 63, subpart RRR, presently applies.

Specifically, this proposed stay would affect existing aluminum die casting facilities and aluminum foundry facilities that meet either, or both, of the following descriptions:

- Facilities that melt materials other than clean charge and other than materials generated within the facility;
- Facilities that operate a thermal chip dryer, sweat furnace, or scrap dryer/delacquering kiln/decoating kiln.

For the purposes of this proposed stay, aluminum die casting facility means a facility that receives molten aluminum or melts solid aluminum, such as aluminum ingots, billets, and/or scrap, and pours or injects the molten metal into a permanent die to produce a casting. Aluminum foundry facility means a facility that receives molten aluminum or melts solid aluminum, such as aluminum ingots, billets, and/or scrap, and pours molten metal into a mold to produce a casting.

IV. What related actions is EPA undertaking?

In an ANPR published elsewhere in this *Federal Register*, EPA is announcing its intention to propose amendments to the Secondary Aluminum Production NESHAP, 40 CFR part 63, subpart RRR, to remove aluminum foundries and aluminum die casting facilities from that NESHAP and to make a new determination concerning MACT requirements for major sources and area sources in these industries.

In order to gather information supporting the new determination concerning alternate MACT requirements for aluminum foundries and aluminum die casting facilities, we intend to collect additional information from individual companies and facilities on site-specific operating practices, emissions, emission control devices, emission control costs and applicable regulations, utilizing our authority under CAA section 114. The EPA will seek approval for this information collection effort from the Office of Management and Budget

(OMB) pursuant to the provisions of the Paperwork Reduction Act.

V. What Are the Administrative Requirements for This Stay?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has determined that this proposed rule is a "significant regulatory action" because of novel legal or policy reasons. As such, this action was submitted to OMB for review.

B. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's proposed stay will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to his proposed stay. Thus, the requirements of section 6 of the Executive Order do not apply to today's action.

C. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the

regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed stay does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate sources subject to this proposed stay. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's action.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. Today's proposed stay is not subject to Executive Order 13045 because it is based on technology performance, not health or safety risks. Furthermore, this proposed rule has been determined not to be "economically significant" as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating

an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed stay does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the Secondary Aluminum Production NESHAP for any year has been estimated to be approximately \$76.7 million (65 FR 15690, March 23, 2000), and today's proposed stay does not add new requirements that would increase this cost. Thus, today's proposed stay is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this proposed stay contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed stay is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act

or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed stay on small entities, a small entity is defined as: (1) A small business in SIC code 3363 or 3365 that has as many as 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed stay on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the proposed stay imposes no additional regulatory requirements on owners or operators of affected sources.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the Secondary Aluminum Production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control No. 2060-0433. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1894.01), and a copy may be obtained from Sandy Farmer by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260-2740. Today's proposed stay of the NESHAP will not increase the information collection burden estimates made previously.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104-113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods,

sampling and analytical procedures, and business practices) that are developed or adopted by one or more voluntary consensus bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The proposed stay does not involve the proposal of any new technical standards or incorporate by reference existing technical standards.

Dated: September 8, 2000.

Carol M. Browner,
Administrator.

[FR Doc. 00-23643 Filed 9-13-00; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket 000301054-0227-02; I.D. 053000D]

RIN 0648-AN27

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule: request for comments.

SUMMARY: NMFS proposes to amend the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) to provide for an at-sea observation program on all limited entry and open access catcher vessels. This proposed rule would require vessels in the groundfish fishery to carry observers when notified by NMFS or its designated agent; establish notification requirements for vessels that may be required to carry observers, and establish responsibilities and define prohibited actions for vessels that are required to carry observers. The at-sea observation program is intended to improve estimates of total catch and fishing mortality.

DATES: Comments on this proposed rule must be received by October 16, 2000.

ADDRESSES: Send comments to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070. Comments also may be sent via facsimile (fax) to 206-526-6736. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) may be obtained from the Pacific Fishery Management Council (Council) by writing to the Council at 2130 SW Fifth Avenue, Suite 224, Portland OR 97201, or by contacting Don McIsaac at 503-326-6352, or may be obtained from William L. Robinson, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this proposed rule to the NMFS address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 00503 (Attn: NOAA Desk Officer). Send comments regarding any ambiguity or unnecessary complexity arising from the language used in this rule to William Stelle, Jr.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, Northwest Region, NMFS, 206-526-6140; fax: 206-526-6736 and e-mail: bill.robinson@noaa.gov or Svein Fougner, Southwest Region, NMFS, 562-980-4000; fax: 562-980-4047 and e-mail: svein.fougner@noaa.gov.

Electronic Access: This proposed rule also is accessible via the Internet at the Office of the Federal Register's website at <http://www.access.gpo.gov/su-docs/aces/aces140.html>.

SUPPLEMENTARY INFORMATION: The U.S. groundfish fisheries off the Washington, Oregon, and California coasts are managed pursuant to the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)(16 U.S.C. 1801-1883) and the Pacific Coast Groundfish FMP. Regulations implementing the FMP appear at 50 CFR part 660, subpart G. The Magnuson-Stevens Act at 16 U.S.C. 1853(b)(8) provides that an FMP may require that one or more observers (50 CFR 600.10) be carried onboard a vessel of the United States engaged in fishing for species that are subject to the FMP, for the purpose of collecting data necessary for the conservation and management of the fishery. The Pacific Coast Groundfish FMP provides that all fishing vessels operating in the groundfish fishery may be required to accommodate on board observers for purposes of collecting scientific data.

Under the Magnuson-Stevens Act at 16 U.S.C. 1855(d), the Secretary of Commerce, acting through NMFS, has general responsibility to carry out any fishery management plan, and may promulgate such regulations as may be necessary to discharge this responsibility.

With the exception of the mid-water trawl fishery for Pacific whiting, most groundfish vessels sort their catch at sea and discard species that are in excess of cumulative trip limits, unmarketable, in excess of annual allocations, or incidentally caught non-groundfish species. Landed or retained catch is monitored by individual state fish ticket programs in Washington, Oregon, and California. However, because a portion of the catch is discarded at sea, there is no opportunity for NMFS or the states to monitor total catch (retained plus discarded catch) at onshore processing facilities. This lack of information on at-sea discards has resulted in imprecise estimates of total catch and fishing mortality.

Discard information is needed to assess and account for total fishing mortality and to evaluate management measures, including rebuilding plans for overfished stocks. Discard estimates based on limited studies conducted in the mid-1980's, and information on species compositions in landings, are available for some groundfish species. For other species there is little or no discard information. During the past decade, there have been significant reductions in cumulative trip limits, and trip limits have been applied to increasing numbers of species. In light of these changes in the regulatory regime, doubt has been raised about the old discard estimates, which were based on data collected in the 1980's. Accurate estimates of discards are essential to computing total catch, and thus are an important component of any fishery conservation and management program. If the discard estimates are too high, harvest allocations may be set too low; if discard estimates are too low, then harvest allocations may be set too high, and the long-term health of the stock may be jeopardized.

The Pacific Coast Groundfish FMP was developed by the Council and approved by NMFS in 1982. Since the early 1990's, the Council has regarded at-sea observers as a viable means to collect much-needed data. The Council's Groundfish Management Team has continually stressed the need for an on-board observer program to accurately assess total catch. Observers have been placed on a voluntary basis aboard offshore processing vessels (catcher/processors and motherships) in

Attachment 4

Table of Proposed Exempt/Insignificant Activities

Table of Proposed Exempt/Insignificant Activities
Response to Request for Additional Information Regarding Construction Permit Modification
VAW of America, Inc., St. Augustine, FL - AIRS ID 1090013

Sources	Location	ID # in Plot Plan	Material Use	Throughput Rate	Heating Rate	Max LPG Input ⁽²⁾	Equipment Manufacture	Equipment Model	Control Type	Control Efficiency	Emission Type	Flow Rate	Stack D	Stack H	Stack Type	Exit T	Operation Schedule	Annual Emissions							
																		ton/yr							
																		Gal/yr						%	ACFM
Steel Saw	Main Building	1	Fe	NA		NA	NA	NA	NA	0	Fugitive	NA	NA	NA	NA	NA	7488	0.01							
Hot Saw, Press #1		2	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.11							
Cold Saw, Press #1		3	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.075							
Hot Saw, Press #2		4	Al	⁽¹⁾		NA	Oliver		Dust Collect	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.088							
Cold Saw, Press #2		5	Al	⁽¹⁾		NA	Oliver		Dust Collect	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	1.6							
Hot Saw, Press #3		6	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.064							
Cold Saw, Press #3		7	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.367							
Tubing Saw 1		8	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.206							
Tubing Saw 2		9	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.599							
Tubing Saw 3		10	Al	⁽¹⁾		NA	Oliver		Cy+Bag	95% Col	Fugitive	1000	NA	NA	NA	Ambient	7488	0.273							
Tubing Saw 4		11	Al	⁽¹⁾		NA			Cy+Bag	95% Col	Fugitive	1000						7488	0.49						
Bench Saw 5		12	Al	⁽¹⁾		NA			Cy+Bag	95% Col	Fugitive							7488							
Caustic Tank	13	Die/NaOH	NA		NA			NA		Point	2000	1x0.5	32	NA	180	7488						0.246			
Nitriding	14	NH4	150 lb/month		NA	K.H Huppert	Serial 144	NA	0	Point	200	0.3	32	Roof w/ cap	500	7488								0.9	
Gritshot	15	Die Abrasive	2.4 lb/hr		NA	Trinco Dry Blast	48x488L/PG	Dust Collect	99%	Point	2000	8"x8"	32	Wall	Ambient	7488	0.15								
Die Shop Boiler	16	LPG		1.1 MMBtu/hr	45,760	York-Shipley	VTP3002ON	NA		Point	406	2.5	32	Roof w/ cap	400	7488	0.014	0.435	0.011	0.073					
Wood Saw	17	Wood	⁽¹⁾		NA		1200-5	Cyclone/bag	95% Col	Fugitive	800		NA	NA	Ambient	7488	0.2								
Spent Caustic Tanks (2 units)	18	Caustic	400 lb/day		NA			NA	NA	Fugitive	NA	NA	NA	NA	NA	8760							0.037		
Welding	19	Alloy			NA			NA	NA	Fugitive	NA	NA	NA	NA	NA	7488	0.01								
Silk Screen	20	MEK Black Ink Paste Paint Reducer	1 gal/wk 1 lb/wk lb/wk lb/wk		NA	NA	NA	NA	0	Point	1200	1x1	32	Wall	Ambient	3120				0.29					
Age/Anneal Oven #1	23	Al	16 tons/day	2.5 MMBtu/hr	57,778	Lanly		NA	0	Point	1200	3x2	32	Roof w/ cap	500	6240	0.017	0.549	0.014	0.092					
Age/Anneal Oven #2	24	Al	16 tons/day	3 MMBtu/hr	69,333	Lanly	6687A	NA	0	Point	1200	3x2	32	Roof w/ cap	500	6240	0.021	0.659	0.017	0.111					
Age/Anneal Oven #3	25	Al	16 tons/day	4.5 MMBtu/hr	104,000	Gerref Indust	468286	NA	0	Point	2738	3'x21"	32	Roof w/ cap	500	6240	0.031	0.988	0.026	0.166					
Grinding & Milling	26	Al			NA											6240	0.01								
Steel Saw	27	Fe	NA		NA											6240	0.01								
Small Age Oven	28	Propane	NA	0.2 MMBtu/hr	11,556											6240	0.003	0.110	0.003	0.018					
Fume Hood	Shown	Misc	NA		NA			NA	NA	Point	2000	1	35	Roof w/ cap	Ambient	6240	0.01								
Homogenizer 1	Casthouse			36 MMBtu/hr	340,000											8760	0.102	3.230	0.085	0.544					
Homogenizer 2				36 MMBtu/hr	339,000											8760	0.102	3.221	0.085	0.542					
Small Lathe Machine						NA										6240	0.01								
Total for Page 1 ⁽⁴⁾						967,427											4.56	9.19	0.53	1.55	0.28	0.90			

Note: ⁽¹⁾ Throughputs are calculated based on collection efficiencies.
⁽²⁾ Emission factors for LPG combustion: NOx: 19lbs/ 1000 gal; PM: 0.6lb/ 1000 gal; VOC: 0.5 lb/1000 gal; CO 3.2 lb/ 1000 gal
⁽³⁾ Emissions in this column listed as 0.01 ton/yr are minimal air emission sources using best engineering estimates
⁽⁴⁾ See page 2 for continuation of table and totals

Attachment 5

Applicant Submission/Professional Engineer Certification

Owner/Authorized Representative or Responsible Official:

1. Name and Title of Owner/Authorized Representative or Responsible Officer:

Name: Mr. Robert Keathley
Title: Vice President of Operations

2. Owner or Authorized Representative or Responsible Official Mailing Address:

Organization/Firm: VAW of America, Inc.
Street Address: P. O. Box 3887
City: St. Augustine
State: FL State: 32086

3. Owner or Authorized Representative or Responsible Official Telephone Numbers:

Telephone: (904) 794-1500 Fax: (904) 794-1508

4. Owner or Authorized Representative or Responsible Official Statement:

I, the undersigned, am the owner or authorized representative of the non-Title V source addressed in this Application for Air Permit or the responsible official, as defined in Rule 62-210.200, F.A.C., of the Title V source addressed in this application, whichever is applicable. I hereby certify, based on information and belief formed after reasonable inquiry, that the statements made in this application are true, accurate and complete and that, to the best of my knowledge, any estimates of emissions reported in this application are based upon reasonable techniques for calculating emissions. The air pollutant emissions units and air pollution control equipment described in this application will be operated and maintained so as to comply with all applicable standards for control of air pollutant emissions found in the statutes of the State of Florida and rules of the Department of Environmental Protection and revisions thereof. I understand that a permit, if granted by the Department, cannot be transferred without authorization from the Department, and I will promptly notify the Department upon sale or legal transfer of any permitted emissions units.*



Signature

December 4, 2001

Date

*Attach letter of authorization if not currently on file.

Application Processing Fee:

Check one:

Attached - Amount : \$ _____ -0- _____

Not Applicable

Construction/Modification Information

1. Description of Proposed Project or Alterations:

The Department made a request on September 7, 2001, for additional information to supplement the Air Permit Modification Construction Application submitted on April 4, 2001, with additional information previously submitted on August 9, 2001. The newly requested information consists of clarification of NESHAP applicability and a review of sources that should be added to the facility Table of Exempt/Insignificant Activities. The prepared Response to Request for Additional Information Regarding Construction Permit Modification includes appropriate responses and also includes the applicant submission information and signature, and the professional engineer certification.

2. Projected or Actual Date of Commencement of Construction: n/a

3. Projected Date of Completion of Construction: n/a

Professional Engineer Certification

1. Professional Engineer Name: Guy D. Van Doren
Registration Number: 40454

2. Professional Engineer Mailing Address:

Organization/Firm: LAN Associates, Inc.
Street Address: 66 Cuna Street
City: St. Augustine State: FL Zip Code: 32084

3. Professional Engineer Telephone Numbers:

Telephone : (904) 824-6999 Fax: (904) 824-0726

4. Professional Engineer Statement:

I, the undersigned, hereby certify, except as particularly noted herein, that:*

(1) To the best of my knowledge, there is reasonable assurance that the air pollutant emissions units(s) and the air pollutant control equipment described in this Application for Air Permit, when properly operated and maintained, will comply with all applicable standards for control of air pollutant emissions found in the Florida Statutes and rules of the Department of Environmental Protection; and


(2) To the best of my knowledge, any emission estimates reported or relied on in this application are true, accurate, and complete and are either based upon reasonable techniques available for calculating emissions or, for emission estimates of hazardous air pollutants not regulated for an emissions unit addressed in this application, based solely upon the materials, information and calculations submitted with this application.

If the purpose of this application is to obtain a Title V source air operation permit (check here [] if so), I further certify that each emissions unit described in this Application for Air Permit, when properly operated and maintained, will comply with the applicable requirements identified in this application to which the unit is subject, except those emissions units for which a compliance schedule is submitted with this application.

If the purpose of this application is to obtain an air construction permit for one or more proposed new or modified emissions units (check here [] if so), I further certify that the engineering features of each such emissions unit described in this application have been designed or examined by me or individuals under my direct supervision and found to be in conformity with sound engineering principles applicable to the control of emissions of the air pollutants characterized in this application.

If the purpose of this application is to obtain an initial air operation permit or operation permit revision for one or more newly constructed or modified emissions units (check here [] if so), I further certify that, with the exception of any changes detailed as part of this application, each such emissions has been constructed or modified in substantial accordance with the information given in the corresponding application for air construction permit and with all provisions contained in such permit.

Signature
(Seal)



Date

12/4/01

